



April 23, 2004

By Electronic Filing

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: Written *Ex Parte*; In the Matter of Provision of Directory Listing Information  
under the Telecommunications Act of 1934, As Amended; CC Docket No. 99-273.

Dear Ms. Dortch,

MCI respectfully submits this written *ex parte* for inclusion in the above-referenced proceeding, in response to the April 7, 2004 written *ex parte* filed by Verizon<sup>1</sup> in support of the pending Petition for Clarification, or in the Alternative, Reconsideration filed jointly by BellSouth and SBC.<sup>2</sup>

In its letter, Verizon asserts that a carrier's potential use of directory listing information (DAL) for calling name and address (CNAM) purposes poses consumer privacy concerns. Specifically, Verizon alleges that if a Verizon "customer makes an outgoing call to a customer of another LEC that uses a DA provider for CNAM, that customer's name will, contrary to their election, be revealed to the called party."<sup>3</sup> They claim this occurs because the DA database, unlike their CNAM database, does not contain any indicator that a particular customer has elected to block caller ID information.<sup>4</sup> As Verizon well knows, the content of the *terminating* LEC's CNAM database is irrelevant for purposes of blocking caller ID. An *originating* carrier using Signaling System 7 includes a privacy indicator in the call setup of an outgoing interstate call of a subscriber when the calling party number ("CPN") is to be blocked.<sup>5</sup> Pursuant to

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<sup>1</sup> Letter from Ann D. Berkowitz, Associate Director for Verizon, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 99-273 (filed April 7, 2004) ("Verizon Letter").

<sup>2</sup> Petition for Clarification or, in the Alternative, Reconsideration, filed by SBC and BellSouth, CC Docket No. 99-273 (filed March 23, 2001).

<sup>3</sup> Verizon Letter, pp. 3-4.

<sup>4</sup> *Id.*, p. 3.

<sup>5</sup> The Commission rules require a carrier using SS7 to recognize and honor a subscriber's use of \*67 dialed as the first three digits of a particular call as a request not to pass CPN with that particular call. The rules do not require a

Commission rules, “[n]o common carrier ... may override the privacy indicator associated with an interstate call...”<sup>6</sup> Additionally, with limited exception, the “terminating carrier must act in accordance with the privacy indicator.”<sup>7</sup> Therefore the existence, or lack, of a privacy indicator in the database of the terminating LEC is irrelevant since the privacy indicator is sent with the call to the terminating LEC, informing that LEC not to display the caller ID information. Thus, there is no need for a terminating LEC to even perform a CNAM search on an incoming call with a privacy indicator.

Verizon also claims “[a]ll customers, even those, with published listings, may request that *Verizon not use* their names and addresses for marketing purposes.”<sup>8</sup> While a customer may request that Verizon not send marketing material, it does not change the fact that published names, numbers and addresses are, as the Commission has acknowledged, “defined in terms of public, not private information.”<sup>9</sup> If a person does not want his information to be made public, he can request that it be unlisted and nonpublished. If he does not wish not to receive telemarketing calls from the general public, he can place his number on the “Do Not Call” registry. Moreover, incumbent LECs continue to use marketing concerns as justification for their use restrictions, which typically are not so narrow, when they have not even provided strong evidence that DAL is being used to any significant degree, let alone abused, by marketers. As LSSi states “during the last three years the sky has not fallen, and there has been no massive influx of consumer complaints to the Commission on this issue.”<sup>10</sup> Indeed, BellSouth and Verizon have only provided a few anecdotal instances, the facts of which are tentative at best. Incumbent LECs also offer no explanation as to why regulators lack the ability to address any privacy concerns and the only solution is ILEC contractual use restrictions imposed on their competitors.

Furthermore, contrary to Verizon’s claims, its so-called “reasonable safeguards and restrictions” will impinge on the ability of competing providers to use DAL “...to develop new or different directory assistance services.”<sup>11</sup> First, Verizon’s assertion itself attempts to limit the services to directory assistance. As the Commission has found, the statute does not limit the use of this data to directory assistance services.<sup>12</sup> Second, innovation in directory assistance services alone would be limited by how that service is defined by the contracts.

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carrier to offer line-blocking service. But originating carriers that do offer this service pass a privacy indicator with the call, just as with a call by a subscriber using \*67.

<sup>6</sup> 47 CFR § 64.1601(b).

<sup>7</sup> *Id.*

<sup>8</sup> Verizon Letter, p. 3 (emphasis added).

<sup>9</sup> *In the Matter of Implementation of the Telecommunications Act of 1996 Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, As Amended*, CC Docket Nos. 96-115, 96-149, Second Report and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd. 8061, 8065, para. 2 (1998)(*CPNI Order*).

<sup>10</sup> Letter from Larry A. Blosser of Gray Cary Ware & Freidenrich LLP, on behalf of LSSi Corp., to Marlene H. Dortch, Secretary, FCC, CC Docket No. 99-273, p.1 (filed April 14, 2004)(“LSSi Letter”).

<sup>11</sup> Verizon Letter, p. 1.

<sup>12</sup> Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended, CC Docket No. 99-273, *First Report and Order*, 16 FCC Rcd 2736, para. 29 (2001)(DAL Order).

In conclusion, the Commission should deny the joint petition of BellSouth and SBC that is pending in the DAL proceeding. LECs should not be permitted, through contractual use and resale restrictions, to obstruct or control the competitive provision and advancement of services using DAL.

Sincerely,

/s/ Karen Reidy

cc: Michelle Carey  
William Dever  
Rodney McDonald